2006 Annual Fraud Report to the Legislature



Targeting Fraud and Abuse

Washington State's Workers'
Compensation System



EXECUTIVE SUMMARY

FY 2006 Return on Investment: \$10.20 for every \$1 spent.

The Department of Labor and Industries (L&I) is pleased to submit this 2006 Annual Fraud Report to the Legislature, *Targeting Fraud and Abuse in Washington State's Workers' Compensation System*.

Fiscal Year 2006 (July 1, 2005, through June 30, 2006) saw another year of systematic, innovative and sustained activity to detect and deter fraud and abuse by employers, workers and health-care providers. Key developments included:

- Stepped-up fraud-fighting capabilities in the construction industry.
- Faster collections using automated telephone software.
- Funding for technology advances, now under way, including development of a new Field (Employer) Audit computer system.
- Increased cross-program referrals within L&I. In FY 2006, cross-program referrals accounted for 40 percent of all referrals received.

The results of these activities are measurable and substantial. For example:

- Assessed \$20,732,592 through employer audits. Of that total, \$3,835,603 was assessed on unregistered employers – companies that hired employees but failed to open a workers' compensation account.
- Investigations resulted in a total of \$15.7 million in avoided costs.
- Achieved a 29 percent increase in all dollars collected (delinquent employer premiums, audit assessments, overpayments to workers, health-care and vocational providers, and fraud recovery orders.)

Twenty cases referred for prosecution (7 employers, 2 providers, 11 workers).

In 2006, we were also able to **more extensively use fraud-fighting capabilities authorized by the Legislature** in 2004 and 2005, including:

- Seeking premiums from 174 companies that closed, and then reopened under a new name. These actions were made possible by the changes in the law governing Successorship.
- Revoking the Certificate of Coverage of 60 employers who refused to enter into or adhere to payment agreements.
- Educating prime contractors about their liability for unpaid workers' compensation premiums generated on their contracts.

Exciting new possibilities are under consideration or development for FY 2007, including data comparisons with the Internal Revenue Service, more out-of-state employer audits, results of funding a dedicated assistant attorney general position to support criminal prosecution of fraud cases, and cross-agency training to increase audit referrals among government agencies.

FIGHTING FRAUD

Fairness and Financial Integrity

Fighting fraud in the workers' compensation is about fairness. It protects honest employers, workers and health-care providers. It promotes financial integrity, helping to keep the system healthy for the 165,000 employers and 2.4 million workers it covers.

In Washington State, the Department of Labor and industries (L&I) administers the state-operated workers' compensation system. This "State Fund" provides workers with wage-replacement and medical benefits to offset the financial impact of a job-related injury or occupational disease. This no-fault insurance protects employers from lawsuits when work-related injuries diseases occur. Premiums paid by employers and workers, plus investment earnings, finance the State Fund.

Why is fraud prevention and detection so important? Because cheating the workers' compensation system is NOT a victimless crime.

- All businesses and workers in an industry pay more if some employers in that industry under pay or don't pay at all. Under Washington law, a worker injured on the job is guaranteed workers' compensation benefits even if his/her employer failed to pay premiums. Other businesses in the same "risk class" pick up the added cost.
- Honest contractors struggle under unfair competition. A construction contractor who underreports employee hours and doesn't pay the full premiums he or she owes can undercut honest contractors when bidding on a job.
- Workers who scam the system hurt their co-workers as well as their employers. Workers pay about 25 percent of workers' compensation premiums. Their payroll deduction as well as the rates employers pay go up when some workers collect benefits they are not entitled to receive.
- Providers inflate medical costs if they bill for services they didn't provide. Inappropriate billings impact costs in two ways: They affect an individual employer's rates, which the employer and his/her workers pay, and they increase medical costs overall.

Our mission is to prevent abuse of the workers' compensation system and protect the economic vitality of Washington State. We have heard the concerns of stakeholders who believe more should be done to reduce the effects of fraud, and we have acted on these concerns in our strategic planning and budgeting processes. The following pages describe our fraudfighting resources and results.

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KEY DEVELOPMENTS IN FY 2006

Background

In 2004, the Department of Labor and Industries (L&I) established its Fraud Prevention and Compliance Program, bringing together several separate programs, including Audit, Investigations and Collections, to coordinate fraud-fighting efforts.

The new program built on past results. It also strengthened our ability to find and stop fraud by workers, employers and health-care providers. Major changes in FY 2004 and 2005 included:

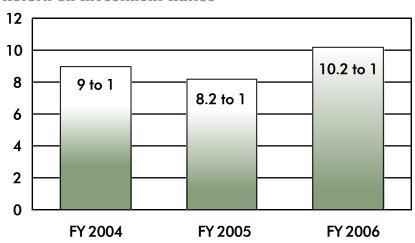
- Legislation on prime contractor liability, successorship, corporate officer liability, and provider collection authority that significantly improved our ability to go after individuals or companies that owed L&I money.
- Increased staffing.
- Technology improvements.

Key developments from July 1, 2005, through June 30, 2006 (FY 2006)

- Stepped-up fraud-fighting capabilities in construction. Six new L&I compliance employees are canvassing the state for contractors and electricians who are ignoring registration and licensing laws and gaining an unfair competitive advantage. Work hours for these new compliance officers include nights and weekends. As they focus on the underground economy those doing work without proper contractor registration or electrical licensing they're also uncovering employers that are ignoring industrial insurance and job-safety laws. From March through June 2006, they made 51 audit referrals for firms operating without workers' compensation coverage or underreporting premiums. These referrals resulted in audit assessments of \$676,402.
- Predictive dialer system. This automated telephone software allows us to make early telephone contact with those who owe us money. We use it to educate employers about their industrial insurance reporting requirements as well as collect accounts receivable. When the system dials someone who answers the phone, the call is transferred to an L&I staff person for action. If the system reaches a messaging system, it leaves a message requesting a return call. This software increases efficiency and call volume. The result is we collect more money faster.
- Innovative audit approaches. In the fourth quarter of FY 2006, we began using a streamlined mail-in audit process to conduct single-issue or limited-scope audits that are less time-consuming for employers. We plan to expand this activity in FY 2007.

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Return on Investment Ratios



Return on investment compares the operating costs of the Fraud Prevention and Compliance Program to the money that is recovered, collected and avoided during the fiscal year. Operating costs include full-time equivalent (FTE) positions, benefits and capital outlays. For FY 2006 the FTEs were 234. This figure includes the Fraud Prevention and Compliance staff — Detection and Tracking Unit, Field (Employer) Audit, Investigations, Collections, Provider Fraud, Significant Cases, Firm Appeals and program administration — and the Provider Review and Vocational Program Audit sections in the Insurance Services Division.

- Funding for technology. In March 2006, the Legislature authorized funding to replace the inadequate computer system used by Field (Employer) Audit. The new Field Audit Computer Technology (FACT) system is currently under development. It will streamline data entry and simplify retrieval of information, allowing us to do more audits and collect more money. The FACT system will support alternative auditing methods that are less time consuming and, therefore, less costly for the employers we audit.
- Commitment to hire a dedicated assistant attorney general (AAG). This position will help support local prosecutors or act as co-counsel on workers' comp cases involving criminal fraud. When local prosecutors already have their hands full, the dedicated AAG may prosecute criminal cases through the Attorney General's Office (AGO). Note: The AGO filled this position in early FY 2007.
- Cross-agency collaboration. We are working with staff from other government agencies to uncover fraud and abuse in multiple agencies. In FY 2006, a tip from another agency led to criminal charges for worker fraud. Also, in FY 2006, we dropped two providers for committing fraud against other state agencies. Data cross-matching capabilities with other state and federal agencies also expanded in FY 2006. Comparing data is particularly helpful in finding workers' comp claimants who may be inappropriately receiving benefits from multiple agencies.
- Cross-program coordination. As an agency, we are committed to combating fraud and abuse and we have communicated this priority across our 20+ programs. We've taken steps to improve coordination across program areas, which have led to more and better fraud referrals. In FY 2006, 40 percent of our referrals came from other L&I programs.

Most injured workers, employers and health-care professionals don't misuse the workers' compensation system. But some will act unethically or illegally for financial gain.

The financial integrity of the workers' compensation system depends on **employers** voluntarily and accurately reporting hours worked and paying the premiums they owe. Failure to identify and take prompt action against employers who cheat the system results in higher premiums for legitimate employers, and may encourage others to underreport hours, or report hours in an improper risk class with lower premium rates.

Worker fraud and abuse occurs when a **worker** knowingly applies for and/or receives benefits he or she is not entitled to receive. Examples are filing a claim when no work-related injury occurred, participating in activities that are inconsistent with the alleged injury, and working for one employer while receiving workers' compensation benefits from another.

Fraud and abuse by **health-care and vocational-services providers** includes inappropriate, costly and sometimes harmful treatments to injured workers, billing for more expensive services than actually provided, billing for treatment not rendered and other questionable billings.

The Department of Labor and Industries directs fraud-fighting resources to all of these areas.



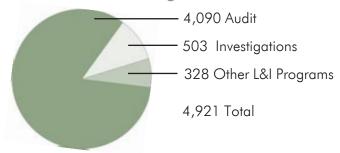
Detection and Tracking Unit Purpose: Prevent and detect fraud. Staffing: 11 FTE

The Detection and Tracking Unit (DTU) uses a variety of tools including technology, cross-agency data sharing and referral screening techniques to identify non-compliance and potentially fraudulent activities. This unit also:

- Identifies valid prospects in referrals received and sends them to appropriate sections or units, such as Field Audit, Investigations or Provider Fraud for action.
- Tracks referral results to identify opportunities for process improvements and provide information for decision-making.
- Operates the fraud telephone hotline and web site.

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FY 2006: Where Referrals Were Assigned



The DTU also manages the Verify Workers' Comp Premium Status online search. The system allows users to find out if a particular business has an active workers' compensation account and determine whether they are in good standing on their premium payments. Users can sign up to be notified if a business falls out of compliance.

The DTU staff also participates in outreach and education activities to build public awareness of our fraud-fighting activities and conducts training workshops on prime contractor liability and determining whether a subcontractor is an independent contractor or a worker. In FY 2006, the DTU presented 13 workshops to 350 attendees.

Field (Employer) Audit Purpose: Identify unpaid employer premiums. Staffing: 67 FTE



State Fund employers use quarterly reports to calculate and report the premiums they owe. Their "risk classifications" are based on the type of work their employees perform. This along with the employer's claims experience influence the premiums they pay.

We audit employers' business records to make sure employers report accurately and pay the premiums they owe. The audit function is a primary tool for determining where abusive or fraudulent behavior is taking place.

Process changes, increased staffing and improved audit targeting capabilities have increased the number of audits and dollars assessed in the last two years. Our focus now and in the next biennium is to continue to increase the number of audits we perform and their effectiveness. To do this, we are developing the Field Audit Computer Technology (FACT) system and will implement it in FY 2007. With future funding, we plan to further upgrade and streamline the auditing system, fully replacing antiquated technology. These changes will allow us to focus audit resources on employers and industries where misreporting is most severe.

Fast Fact!

The Verify Workers'
Comp Premium Status
online search has
33,613 registered
users.Tracking requests
average 125 per day.

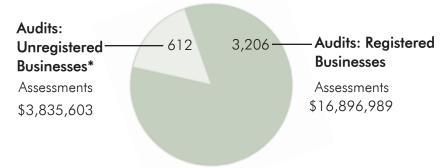
Fast Fact!

Audits benefit all employers by helping to ensure that they pay only their fair share of costs.

Case In Point

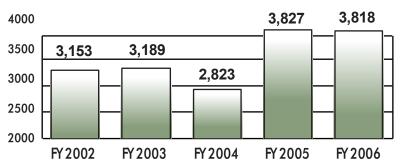
In FY 2006, audits of just four large out-of-state firms resulted in the collection of more than \$1,500,000 in premiums owed. In FY 2007, we plan to increase audits of out-of-state firms operating in Washington State.

FY 2006 Audit Results

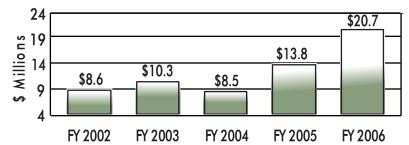


Total 3,818 Assessments \$20,732,592

Number of Completed Employer Audits



Millions of Dollars Assessed through Employer Audits



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^{*}An unregistered business is one that hires employees but fails to open a workers' compensation account.

Investigations

Purpose: Stop improper workers' compensation payments to workers. Staffing: 51 FTE



Our Investigations section conducts a variety of investigations to identify improper payments to workers. Detection of abusive or fraudulent claims starts with tips from the public and employers, internal staff such as claim managers, and computer cross matches. When warranted, investigations can lead to both civil and criminal fraud action. The most common investigations are:

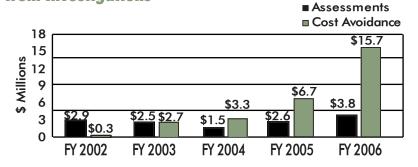
- Validity investigations. Investigators assist claim managers in deciding whether the injury or disease was work related and whether the claim should be allowed or denied. Claims found to be invalid are denied.
- Activity investigations. Investigators conduct "activity checks" to determine whether claimants' activities conform to the reported physical limitations that justified benefits. Investigations can result in claims closing earlier when the claimants are found to be employable. Collection activity may occur to recoup inappropriately paid benefits.

These activity checks result in significant savings to the workers' compensation system. Using a standardized method to determine avoided costs, we estimate how much would have been spent on a claim if benefits had not stopped as a result of the investigation.

Fast Fact!

Avoided costs totaled \$15.7 million in FY 2006.

Millions of Dollars Assessed and Costs Avoided from Investigations



Case In Point

L&I investigators built a case against a Sedro-Woolley man for illegally collecting workers' compensation wage-replacement (time-loss) benefits that led to criminal charges and conviction. The individual was sentenced to 28 months in state prison and ordered to repay \$11,000 in benefits and \$5,000 in penalties.

The Investigations section also conducts industrial insurance discrimination investigations. The law protects workers from employer discrimination or retaliation for filing a workers' compensation claim. L&I investigates allegations of employer discrimination against injured workers. Staffing for this unit is 8 FTEs.

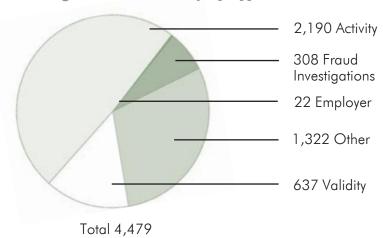
Fast Fact!

As a result of investigations in FY 2006, L&I issued 167 orders totaling \$3,831,774.

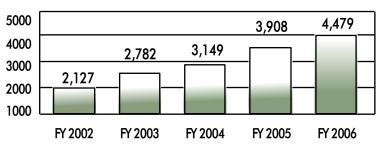
- Fraud investigations. When an activity check reveals that a claimant may be receiving benefits fraudulently, we open a fraud investigation. If we determine that fraud was involved, we issue an administrative fraud order (AFO) demanding repayment of benefits plus penalties of 50 percent of the overpayment. These investigations can take several months or longer to complete, depending on the complexity of the case.
- Out-of-state investigations. We conduct these investigations if potential fraud involves a person receiving workers' comp benefits who doesn't reside in this state. With an additional investigator and new contracts with investigative agencies in other states, we increased the number of out-of-state investigations in FY2006 by 164 percent.
- Other investigations. Investigators conduct other preliminary inquiries or checks that may lead to a full fraud investigation. For example, we check on persons drawing benefits who may be ineligible if they are incarcerated. Our Pension section may want us to verify that surviving spouses of deceased pensioners are still eligible for benefits and haven't remarried. We investigate cases involving persons who are seeking drugs by presenting themselves as injured workers when they are not.

Miscellaneous investigations also involve requests for assistance from other agencies, business records checks, obtaining documentation, and service notification when claims have been stopped

FY 2006 Investigations Conducted, By Type



Investigations Completed All Types



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Provider Fraud and Abuse

Purpose: Ensure quality services to injured workers

and stop improper payments to providers.

Staffing: 18 FTE*



Labor and Industries paid out more than \$485 million for health-care and vocational services in FY 2006. We constantly monitor and review the quality of care health-care professionals provide to injured workers, the performance of vocational counselors and the billing practices of both. As a result, L&I detects the majority of these cases of abuse or fraud. We also receive information from other providers, the public and computer review of billing practices.

The Provider Review Unit performs billing audits and quality of care review of health-care providers. The Vocational Review Unit carries out the same responsibilities for vocational-services providers. Both units reside in L&I's Insurance Services Division. Statistics for these units are shown together below.

FY 2006 Provider Review Results

Type of Reviews	Number	Assessments
Health-care	97	\$536,948
Vocational	112	\$110,353
Total	209	\$647,301

The Provider Fraud Unit in the Fraud Prevention and Compliance Program audits and investigates health-care and vocational providers suspected of criminal fraud. This unit identified over \$3 million in improper billings, penalties and cost avoidance by the end of FY 2006. One provider was sentenced on criminal charges in Fiscal Year 2006.

FY 2006 Provider Fraud Results

Investigations Conducted	Questionable Billings	Penalties	Costs Avoided
59	\$2,012,420	\$287,189	\$874,566

Case In Point

The former owner of Peak Performance Physical Therapy Clinics was found guilty of first-degree theft in November 2005 for over-billing the Department of Labor and Industries \$375,000 for services his company didn't provide to injured workers. He later received a 12-month sentence – 45 days in jail and the remainder in electronic home detention – and was ordered to repay L&I.

Fast Fact!

The Provider Fraud Unit collected nearly \$500,000 in improper billings in FY 2006.

^{*}Staffing: Health-care Reviews, 6 FTE; Vocational Reviews, 6 FTE; Provider Fraud Unit, 6 FTE.



Collections

Purpose: Collect monies that employers, workers and providers owe the workers' compensation system.
Staffing: 81 FTE

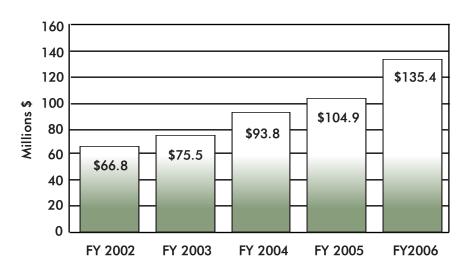
Monies owed to L&I include delinquent employer premiums; audit assessments; overpayments to workers, health-care and vocational providers; fraud recovery orders; safety citation penalties; contractor infraction penalties; and other penalties and fees. In this report, we focus on collections pertaining to workers' compensation.

We have the legal authority to assess penalties and interest and to recover monies through civil action. For example, we can file a tax warrant in the appropriate superior court and take collection actions such as seizing bank accounts, garnishing wages and seizing property. In addition, we may pass the debt of unpaid premiums for work performed by contract to the person, firm or corporation letting the contract.

During Fiscal Year 2006, we collected more than \$135 million, a dramatic increase of 29 percent over FY 2005 collections. We attribute this increase to our new predictive dialer unit, which allows earlier telephone contact with individuals who owe us money, changes in the law providing stronger tools for collecting in abusive or fraudulent situations, and more efficient operations.

Total Collections: July 1, 2002, through June 30, 2006*

*Includes collections of delinquent premiums, penalties and interest from employers, civil assessments for fraud, assessments for criminal fraud, and the recovery of improper payments to providers and injured workers.



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Dollars Collected

Action	What It Means	Amount Collected in FY 2006	
Employers			
Premiums collected	Revenue Officers take action to collect unpaid premiums.	\$129,650,000	
Successorship, corporate officer liability, and revocations	Legislative action in 2004 changed the law governing successorship. Employers are no longer able to avoid premiums by closing a business and reopening as a new one. In FY 2006, L&I used this law 174 times. Corporate officer liability and revocations (see below) are additional tools to help collect premiums owed.	\$608,000	
Prime contractor liability (general contractor liability for the unpaid workers' comp premiums of their subcontractors)	Legislative action in 2004 changed the law governing prime contractor liability. This change clarified for prime contractors their responsibility for unpaid workers' comp premiums generated on their contracts. It also required L&I to make it easier for prime contractors to check the status of subcontractors' workers' comp accounts.	\$1,575,000	
Health-care and vocational provider	S		
Overpayments collected (fraud and other overpayments)	Provider reviews identify and recover monies paid through inappropriate billings.	\$867,000	
Injured workers			
Overpayments collected (fraud and other overpayments)	Revenue Officers take collection action to recover monies from injured workers who were overpaid and no longer entitled to benefits.	\$2,700,000	
Total		\$135,400,000	

Other Results

Action	What It Means	No. of Actions Taken
Contractor registrations suspended	A contractor's registration can be suspended for failing to pay workers' comp premiums. Contractors who continue to work after being suspended are subject to fines under contractor registration laws. Anyone who hires an unregistered contractor can be held responsible for their unpaid workers' compensation premiums.	113 registrations suspended
Revocations	If efforts to bring an employer into compliance fail, L&I may revoke that employer's Certificate of Coverage. It is a Class C felony to hire employees without that certificate.	60 Certificates of Coverage revoked



Significant Employer Cases
Purpose: Take action to stop blatant disregard of the law.
Staffing: 2 FTE

We have established criteria to identify the most egregious employer misconduct cases statewide and make successful resolution a priority. The Significant Employer Cases (SEC) manager tracks status of these cases. SEC management has resulted in additional felony referrals and collection of more than \$1.2 million since August 2004.



Firm Appeals
Purpose: Ensure proper application of the law.
Staffing: 7 FTE

Employers who disagree with audit findings, premium assessments, interest or penalties may request reconsideration. The Firm Appeals unit reviews the actions taken to ensure that the law has been applied fairly and properly. Employers may also appeal to the Board of Industrial Insurance Appeals.

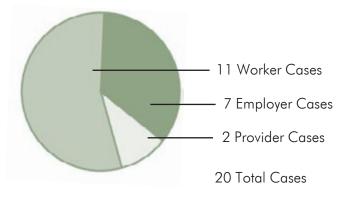
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Deter future fraud by seeking criminal prosecutions.

A key element in preventing workers' compensation fraud is raising awareness of the consequences. For its deterrent effect, L&I publicizes successful prosecutions by sending news releases to newspapers, radio and television stations, and business/trade and labor publications; posting information on the agency's web site; and referencing criminal cases in speeches and community presentations.

In Fiscal Year 2006, we secured a commitment from the Attorney General's Office (AGO) to assign a dedicated attorney to our fraud cases in early FY 2007. This attorney gives us the ability to support local prosecutors or act as co-counsel. When local prosecutors already have their hands full, the dedicated AAG may prosecute cases through the AGO.

FY 2006 Cases Referred for Prosecution



Case In Point

Failing to have a workers' compensation account and pay premiums landed an Oak Harbor employer in jail. The owner of Catalina Marine Services, Inc. pleaded guilty to a Class C Felony. He was sentenced February 3, 2006, to two days in jail and 28 days of home monitoring, and ordered to pay \$76,885 in premiums and penalties.

PROGRESS FROM FY 2005

In the 2005 Annual Fraud Report to the Legislature, we identified several specific objectives for Fiscal Year 2006.

Objective	Status
Continue to reallocate resources and add staff to more	\checkmark
effectively detect and pursue fraud/abuse and improve collections.	Ongoing
Increase collections by earlier phone contact with	V
employers regarding their failure to file quarterly reports or	
pay past due amounts.	System implemented
Step up efforts to educate the public on types of abuses that	$\overline{\mathbf{A}}$
exist in the workers' compensation system.	Ongoing
Work closely with employers to ensure that they are	N
promptly notified when a claim is filed so that they can	Ongoing
challenge claims that might be fraudulent.	Oligoling
Follow up with employers on the outcome of claims decisions based on reports of fraud findings.	$\overline{\checkmark}$
decisions based on repons of fraud findings.	Implemented
Continue to prosecute and publicize significant fraud cases.	$\overline{\checkmark}$
	Ongoing
Improve L&I's web site with additional information on how	$\overline{\checkmark}$
to report fraud and how a contractor can check the status of a claim.	Ongoing
Evaluate and adopt new technologies to effectively identify	$\overline{\mathbf{V}}$
fraud and maximize the agency's resources.	Ongoing
Increase construction-contractor training in troubled areas	$\overline{\checkmark}$
(such as independent-contractor hiring and prime- contractor liability) to help contractors understand their	Implemented
premium-reporting responsibilities.	
Run all open workers' compensation claims through	\overline{A}
sophisticated tracking software that can detect fraud and	Implemented
other irregularities.	pioinioniad

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NEXT YEAR

The Department of Labor and Industries will continue to aggressively pursue fraud and abuse in the workers' compensation system.

Looking ahead, in FY 2007, the agency already has or will:

- Complete development of the new Field Audit Computer Technology (FACT) system by June 30, 2007.
- Develop and present training to audit staff at L&I and the departments of Revenue and Employment Security on how to make good audit referrals to other agencies.
- Set up more contracts for out-of-state audits. By contracting to obtain audits of out-of-state firms that cannot make their records available to us in Washington State, we can increase the number of out-of-state firms we audit without reducing the number of audits performed in state.
- Compare employer data with the Internal Revenue Service to identify where reporting discrepancies may exist.
- Use the national child support "new hire" register to detect injured workers who have returned to work outside of the state. We currently check the in-state new hire registry.
- Contract with an outside billing firm to conduct specialized audits of providers.
- Conduct a feasibility study to determine whether software that detects provider fraud and abuse may be beneficial.
- Continue process improvements to increase the quality and timeliness of investigations into potential workers' compensation fraud and abuse.

FOR MORE INFORMATION ABOUT THIS REPORT

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- L&I Communication Services: Barbara Davis, 360-902-4216, daba235@LNI.wa.gov Cheryl Moore, 360-902-5414, chem235@LNI.wa.gov

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HOW TO REPORT FRAUD

The people of Washington State can help stop workers' comp fraud by reporting situations that may be fraudulent and letting others know how to report. These leads will help the Department of Labor and Industries track down and stop workers' comp fraud.

- Fraud reporting hotline at 1-888-811-5974.
- Fraud reporting web site: www.Fraud.LNI.wa.gov.

Employers can help detect workers' comp **and** unemployment insurance fraud by reporting newly hired workers at www.dshs.wa.gov/newhire/.